IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 1057/2005
SURGYAN Vs. STATE OF RAJASTHAN & ORS.

DATE: 31.05.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Amar Singh for the complainant-petitioner.
Mr. B.K. Sharma, Public Prosecutor for the State.
Mr. R.S. Rathore for the accused-respondents.

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The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the complainant-petitioner against the order dated 03.09.2005 passed by the Additional Sessions Judge (Fast Track) No.1, Jaipur District, Jaipur in Sessions Case No. 43/2004 by which the application moved on behalf of the petitioner under Section 216 Cr.P.C. for framing additional charges against the accused-respondents for the offences under Sections 376(2)(G), 302 and 201 IPC has been dismissed.

It is submitted that during pendency of the trial an application under Section 216 Cr.P.C. was moved on behalf of the complainant-petitioner before the trial Court for framing additional charges against the accused-respondents for the offences under Sections 376(2)(G), 302 and 201 IPC because from the letters

which were recovered by the police it is clear that late Shri Prabhu has mentioned that Surja Ram will be happy after murder of Prabhu and when Prabhu tried to report this fact, the accused-respondents committed rape upon his wife (mother in law of the petitioner) and thus, it is clear case of 376(2)(G) IPC.

I have heard learned counsel for the complainant-petitioner, learned Public Prosecutor for the State as well as learned counsel for the accused-respondents and carefully gone through the impugned order dated 03.09.2005 passed by the trial Court by which the application of the petitioner moved under Section 216 Cr.P.C. has been rejected.

While rejecting the application of the petitioner the trial Court has not care to examine the facts which are mentioned here in the present revision petition as also the documents which were required to be seen.

Therefore, without expressing any opinion on the merits of the case, in the interest of justice, I only deem it proper to remand the matter back to the trial Court for fresh adjudication and the parties are at liberty to raise all the legal and just objections/submissions which are raised here in this revision petition before the trial Court.

Accordingly, the impugned order dated 03.09.2005 passed by the Additional Sessions Judge (Fast Track) No.1, Jaipur District, Jaipur is hereby quashed and set-aside and the matter is remanded back to the trial Court for fresh adjudication and shall pass order afresh on its merit after giving opportunity of being heard to the parties.

With these observations, the revision petition stands disposed of.

Record be sent back forthwith.

(K.S. RATHORE),J.

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